

Assembly Bill No. 793

Passed the Assembly May 18, 2009

Chief Clerk of the Assembly

Passed the Senate September 4, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 355.5 to the Code of Civil Procedure, relating to employment discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 793, Jones. Employment: discrimination.

Existing law contains provisions that define unlawful discrimination and employment practices and establish procedures for an employee who has suffered discrimination or other unlawful practices, as defined, to file a complaint with the Fair Employment and Housing Department, or under certain circumstances, to bring a civil action against his or her employer.

This bill would specify when a cause of action for unlawful discrimination or unlawful employment practice with respect to compensation accrues for determining whether a complaint was filed within statutory deadlines.

The people of the State of California do enact as follows:

SECTION 1. Section 355.5 is added to the Code of Civil Procedure, to read:

355.5. (a) For the purpose of filing a claim or complaint for any unlawful employment practice with respect to compensation, including, but not limited to, discrimination claims and Labor Code violations, a cause of action accrues when any of the following occurs:

- (1) A compensation decision or other practice is adopted.
- (2) An individual becomes subject to a compensation decision or other practice.
- (3) An individual is affected by the application of a compensation decision or other practice, including each time when wages, benefits, or other compensation is paid, resulting in whole or in part from the compensation decision or other practice.

(b) When an administrative complaint is filed, liability may accrue and an aggrieved person may obtain relief where the unlawful employment practices that have occurred during the applicable administrative complaint filing period are similar or

related to unlawful employment practices with regard to compensation that occurred outside the time for filing an administrative complaint.

(c) Nothing in this section is intended to change current law treatment of when pension distributions are considered paid.

(d) With regard to any complaint under any law, nothing in this section is intended to preclude or limit an aggrieved person's right to introduce evidence of an unlawful employment practice that has occurred outside the time for filing a charge of discrimination.

(e) This section does not impose a substantive change in the acts or omissions that constitute an unlawful employment practice with respect to compensation. It is the intent of the Legislature in enacting this section to construe and clarify the meaning and effect of existing law and to reject the interpretation given to federal law by the United States Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co.* (2007) 550 U.S. 618. This section shall apply to claims pending on or after the effective date of this section. It is not intended to revive claims that have lapsed as of the effective date of this section.

Approved _____, 2009

Governor